

**REMARKS**

These remarks are primarily directed towards the Final Office Action, mailed March 13, 2003, in the parent of the present CPA.

Claims 46-60 were pending in the parent application. Claims 46, and 53-58 are currently amended. Claims 52 and 58- 59 are cancelled without prejudice, and new Claims 61-64 are added. Claims 46, 53-57 and 60-64 are currently in prosecution in the case.

In the Office Action the Examiner rejected Claims 46-51 under 35 U.S.C. §102(b) as having been anticipated by **Yamakoshi et al.** The Examiner pointed out that **Yamakoshi et al.** teaches an ophthalmic composition with the specified amounts of proanthocyanidins. The claim has been amended to delete proanthocyanidins. Applicants respectfully contend that the claim as amended is free of the prior art and respectfully request the withdrawal of the rejection based on **Yamakoshi et al.**

New claim 61 claims proanthocyanidins as an ophthalmic preservative. **Yamakoshi et al.** contain no teachings that would lead one of skill in the art to consider a preservative system consisting essentially of proanthocyanidins. In fact, the reference teaches in the opposite direction. On page 5, line 55 **Yamakoshi et al.** teaches the need for a preservative such as chlorobutanol with the proanthocyanidin composition.

Claim 60 has previously been found by the Examiner to be allowable. Claims 53-57 have been amended to depend from Claim 60 and should, therefore, also be allowable.

New claim 62 is directed to an ophthalmic solution preserved by oleuropein. Applicants believe this claim is free of prior art and is allowable. New claim 63 is directed to a preservative system consisting essentially of oleuropein and should, therefore, be allowable.

New claim 64 is directed to a preservative system selected from a subset of the compounds listed in claim 46 and should, therefore, also be allowable.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner still finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number listed below to discuss the steps necessary for placing the application in condition for allowance.

You are hereby authorized to charge any fees due and refund any surplus fees to our Deposit Account No. 50-2567.

Respectfully submitted,

REED SMITH CROSBY HEAFEY

Date: 9 June 2003

By: Stefan J. Kirchanski  
Stefan J. Kirchanski  
Registration No. 36,568  
Attorney for Applicants

1901 Avenue of the Stars, Suite 700  
Los Angeles, CA 90067  
Telephone: (310) 734-5200  
Facsimile: (310) 734-5299